

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 1-14 and 20-27 are in the case.

I. THE 35 U.S.C. §112, SECOND PARAGRAPH, REJECTION

Claims 1-14 and 20-27 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite for the reasons detailed on page 2 of the Action. In particular, the Examiner has objected to the reference to acyl or alkoxy groups being unsaturated, and has asserted that the standard definition of alkyl does not permit unsaturation. The Examiner has provided various dictionary definitions for alkyl to allegedly support of his position. The rejection is respectfully traversed.

It is well established that a patent applicant can act as his or her own lexicographer. In the present case, the applicant has chosen to define alkyl groups to include the possibility of being unsaturated (see page 9, line 6).

In the case of *3M Innovative Properties Co. v. Avery Dennison Corp*, 69 USPQ2d 1050 (CAFC 2003), the court stated. in part V of the decision, that:

"In construing patent claims, there is 'a heavy presumption' that a claim term carries its ordinary and customary meaning (citations omitted) namely its meaning 'amongst artisans of ordinary skill in the relevant art at the time of the invention' ".

The court continued:

"A term's ordinary meaning, however, must be considered in the context of all intrinsic evidence, namely the claims, the specification, and the prosecution history..."

The court further stated:

"While limitations in the specification must not be routinely imported into the claims,a definition of a claim term in the specification **will prevail** over a term's ordinary meaning if the patentee has acted as his own lexicographer and clearly set forth a different definition." (Emphasis added).

In the present case, the applicant has acted as its own lexicographer by defining, in the specification as originally filed, that "alkyl and alkoxy groups may also be unsaturated..." (page 9, lines 4 and 5). As such this definition must "prevail". *3M Innovative Properties Co., Id.*

Withdrawal of the outstanding 35 U.S.C. §112, second paragraph, rejection is now believed to be in order. Such action is respectfully requested.

II. THE 35 U.S.C. §112, FIRST AND SECOND PARAGRAPHS, REJECTIONS

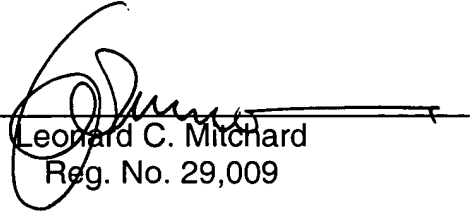
It is noted, with appreciation, that the rejection of claims 1-14 and 20-27 under 35 U.S.C. §112, paragraphs 1 and 2, for the reasons detailed beginning on page 3 of the Final Action has been obviated with the Amendment dated August 25, 2004.

Allowance of the application is respectfully requested.

Respectfully submitted,

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